

48A C.J.S. Judges § 18

Corpus Juris Secundum | August 2023 Update

Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

I. In General

B. Nature, Creation, Regulation, and Abolition of Office in General

§ 18. Creation and regulation—Number

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  2

**In the absence of constitutional inhibition, the number of judges to a district is within the discretion of the legislature.**

In the absence of constitutional inhibition, the number of judges to a district is within the discretion of the legislature.<sup>1</sup> Additionally, in the manner permitted by the constitution,<sup>2</sup> the legislature may increase<sup>3</sup> or diminish<sup>4</sup> the number of judges. Increasing the number of judges in a court does not create a distinctively new office but adds to the number of offices previously existing.<sup>5</sup> Additionally, a statute designating or authorizing a judge to act as a presiding judge does not create an office separate and apart from his or her office as judge of the court.<sup>6</sup>

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Footnotes

1 W. Va.—State ex rel. Casey v. Pauley, 158 W. Va. 298, 210 S.E.2d 649 (1975).

2 Fla.—Monington v. Turner, 251 So. 2d 872 (Fla. 1971).

**Setting maximum limit instead of fixing number of judges proper**  
N.Y.—Taylor v. Sise, 33 N.Y.2d 357, 352 N.Y.S.2d 924, 308 N.E.2d 442 (1974).

3 W. Va.—State ex rel. Alsop v. McCartney, 159 W. Va. 829, 228 S.E.2d 278 (1976).

Ala.—King v. Campbell, 988 So. 2d 969 (Ala. 2007).

- 4                                   Ill.—[Hirschfield v. Barrett](#), 40 Ill. 2d 224, 239 N.E.2d 831 (1968).
- As to abolition of the office of judge, see § 19.
- 5                                   W. Va.—[State ex rel. Casey v. Pauley](#), 158 W. Va. 298, 210 S.E.2d 649 (1975).
- 6                                   Tex.—[Eucaline Medicine Co. v. Standard Inv. Co.](#), 25 S.W.2d 259 (Tex. Civ. App. Dallas 1930), writ refused, (Oct. 29, 1930).
- As to the definition of a presiding judge, see § 4.

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